

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GARRY DAVID GALLARDO,

ORDER

Petitioner,

09-CV-4101 (NGG)

-against-

CAMERON LINDSEY, Warden,
Metropolitan Detention Center,
Brooklyn,

Respondent.

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NICHOLAS G. GARAUFIS, United States District Judge.

On September 29, 2009, this court denied Petitioner Gary Gallardo's habeas corpus petition on the merits. (Docket Entry # 4.) The same day, Petitioner moved to preliminarily enjoin the Federal Bureau of Prisons from transferring him from the Metropolitan Detention Center in Brooklyn, New York, to a prison in Pennsylvania. (Docket Entry # 3.) Petitioner argued that this injunction was warranted because his habeas petition "could realistically result in [his] release from the . . . Federal Government's custody." (Id. 1.) Because this court denied Petitioner's habeas petition on the merits, his motion for a preliminary injunction is moot and, in any event, fails as a matter of law. See Winter v. Natural Res. Def. Council, Inc., 129 S. Ct. 365, 374 (2008) (movant must demonstrate likelihood of success on the merits to obtain preliminary injunction).

Accordingly, Petitioner's motion for a preliminary injunction is DENIED. The court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and,

therefore, in forma pauperis status is denied for the purpose of any appeal. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

s/Nicholas G. Garaufis

Dated: Brooklyn, New York
August 29, 2010


NICHOLAS G. GARAUFIS
United States District Judge